

By the Committee on Agriculture; and Senator Montford

575-01864-13

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1 A bill to be entitled

2 An act relating to agricultural storage and shipping
3 containers; amending s. 506.19, F.S.; providing that
4 an owner of containers used for the storage or
5 transport of agricultural or other commercial products
6 may adopt for his or her exclusive use a particular
7 mark or brand to designate and distinguish ownership
8 of the containers; making technical and grammatical
9 changes; creating s. 506.265, F.S.; providing
10 definitions; requiring that a person who purchases
11 five or more plastic bulk merchandise containers from
12 one seller obtain proof of ownership, verify the
13 seller's identity, pay noncash, and record and
14 maintain other information for a specified period of
15 time; providing that prosecuting attorneys may inspect
16 the records at any time upon reasonable notice;
17 providing an exception for licensed waste haulers;
18 creating s. 506.266, F.S.; providing criminal and
19 civil penalties; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Section 506.19, Florida Statutes, is amended to
24 read:

25 506.19 Protection of owners of marked or branded field
26 boxes or other specified containers; recordation.—Any person who
27 owns ~~being the owner of~~ field boxes, pallets, crates,
28 containers, or receptacles used in the general production,
29 harvesting, packing, transportation, or marketing of fruits or

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30 vegetables or their byproducts or used for the storage or
31 transport of agricultural or other commercial goods in this the
32 state may adopt for his or her exclusive use and ownership a
33 ~~particular~~ mark or brand that designates or distinguishes to
34 ~~designate and distinguish~~ his or her ownership thereof and may
35 identify his or her field boxes, pallets, crates, containers, or
36 receptacles ~~so used~~ with a such mark or brand using in the form
37 ~~of such combinations,~~ initials, symbols, designs, ~~or~~ names, or
38 any combination thereof as he or she may desire, by plainly and
39 distinctly stamping, stenciling, painting, cutting, etching, or
40 burning the mark or brand same into or upon both ends or sides
41 of the such field boxes, pallets, crates, receptacles, or
42 containers. For purposes of any court or administrative
43 proceeding, if a copy of the mark or brand has been filed and
44 recorded in the office of the Department of Agriculture and
45 Consumer Services as provided in this chapter, and the presence
46 of this such identifying mark or brand and the required
47 registration number on any field box, pallet, crate, container,
48 or receptacle is ~~whenever a copy or description thereof shall~~
49 ~~have been filed and recorded in the office of the Department of~~
50 ~~Agriculture and Consumer Services as herein provided for, shall,~~
51 ~~in any court and in any proceedings in this state, be prima~~
52 ~~facie evidence of the ownership of such boxes, pallets, crates,~~
53 ~~containers, or receptacles by the person in whose name such mark~~
54 ~~or brand may have been recorded, provided such mark or brand~~
55 ~~shall have been recorded with the Department of Agriculture and~~
56 ~~Consumer Services as herein provided and shall bear the~~
57 ~~registered number herein provided for.~~

58 Section 2. Section 506.265, Florida Statutes, is created to

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59 read:

60 506.265 Purchase of plastic bulk merchandise containers.-

61 (1) As used in this section, the term:

62 (a) "Bona fide purchaser" means a person who in good faith
63 makes a purchase without knowledge of another person's
64 outstanding rights.

65 (b) "Plastic bulk merchandise container" means a plastic
66 crate or shell used by a product manufacturer, distributor, or
67 retailer for the bulk transportation or storage of goods and
68 includes a plastic pallet used as a portable platform upon which
69 containers, products, or materials may be placed to facilitate
70 handling.

71 (c) "Proof of ownership" means a bill of sale or other
72 evidence showing that a person who claims to be the owner of an
73 item is the bona fide purchaser who purchased the item for fair
74 market value.

75 (2) A person who purchases five or more plastic bulk
76 merchandise containers from one seller shall:

77 (a) Obtain from the seller proof of ownership of the
78 containers and maintain a record that includes the date of the
79 transaction; the seller's or consignee's name, address, and
80 telephone number; and a description of the containers, including
81 the number of containers being sold, each container's serial
82 number, and other identifying marks.

83 (b) Verify the seller's identity with a valid driver
84 license or other government-issued photo identification card and
85 maintain a copy thereof in the record of sale.

86 (c) Make a noncash payment for five or more plastic bulk
87 merchandise containers and record the method of payment used in

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88 each transaction.

89 (3) The purchaser shall maintain required records for at
90 least 2 years after the date of purchase or delivery, whichever
91 is later. State attorneys of the judicial circuits in this state
92 may inspect these records at any time upon reasonable notice.

93 (4) This section does not apply to the collection, receipt,
94 or recycling of plastic bulk merchandise containers by a
95 licensed waste hauler.

96 Section 3. Section 506.266, Florida Statutes, is created to
97 read:

98 506.266 Penalties.—

99 (1) As used in subsections (2) and (3), the term "value"
100 has the same meaning as in s. 812.012.

101 (2) A person who violates s. 506.265 in a transaction in
102 which the value of the plastic bulk merchandise containers is
103 \$10,000 or less commits a misdemeanor of the first degree,
104 punishable as provided in s. 775.082 or s. 775.083.

105 (3) A person who violates s. 506.265 in a transaction in
106 which the value of the plastic bulk merchandise containers is
107 more than \$10,000 commits a felony of the third degree,
108 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

109 (4) A person who violates s. 506.265 is liable to the owner
110 of a stolen plastic bulk merchandise container for three times
111 the replacement value of the stolen plastic bulk merchandise
112 container. The owner of the plastic bulk merchandise container
113 may bring an action in a court of competent jurisdiction to
114 recover money damages and attorney fees and costs incurred in
115 maintaining the action.

116 Section 4. This act shall take effect October 1, 2013.